

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF THE NORTHERN MARIANA ISLANDS

RANDALL T. FENNELL,

Plaintiff,

v.

MATTHEW T. GREGORY, *et al.*,

Defendants.

Civil Case No. 09-00019

ORDER UPON REMAND RE:  
DEFENDANTS' MOTION TO DISMISS

In keeping with the memorandum opinion of the Ninth Circuit in this case (*see* Docket No. 42; *see also* Docket No. 43):

- Plaintiff's claim for relief under Section 1983 of Title 42, United States Code for violation of his substantive due process rights is hereby **DISMISSED WITH PREJUDICE**, because the Attorneys General are entitled to qualified immunity with respect to Plaintiff's Fourteenth Amendment due process claims;
- Plaintiff's claim for relief under Section 1983 of Title 42, United States Code for violation of his First Amendment rights is hereby **DISMISSED WITHOUT PREJUDICE**, for failure to state a claim under the pleading standards of *Ashcroft v. Iqbal*, 556 U.S. \_\_\_, 129 S. Ct. 1937 (2009); and
- Plaintiff's claim for relief under Section 1983 of Title 42, United States Code for violation of his equal protection rights is hereby **DISMISSED WITHOUT PREJUDICE**, for failure to state a claim by failing to allege differential treatment from similarly situated individuals.

1 The court's order of September 28, 2009 (*see* Docket No. 34) stands in all other respects.  
2 As such, all causes of action are dismissed.

3 Plaintiff shall file a "First Amended Complaint" by April 28, 2011, if at all. Should Plaintiff  
4 not file an amended complaint, the court will dismiss all claims with prejudice.

5 **SO ORDERED** this 13th day of April, 2011.



/s/ Frances M. Tydingco-Gatewood  
FRANCES M. TYDINGCO-GATEWOOD<sup>1</sup>  
District Judge

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27 <sup>1</sup> The Honorable Frances M. Tydingco-Gatewood, Chief Judge, District Court of Guam, by designation. *See*  
28 48 U.S.C. § 1821(b)(2).